

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA OF
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
v.) CASE NO. 2:08-cr-49-MEF
)
RICHARD JAMES MARSHALL)

O R D E R

After an independent review of the file and the Supreme Court's recent opinion in *United States v. Hayes*, 2009 WL 436680, No. 07-608 (U.S. Feb. 24, 2009), it is the ORDER, JUDGMENT and DECREE of the court that:

- (1) The defendant's Objections (Doc. #44) to the Recommendation of the Magistrate Judge filed on January 24, 2009 are overruled;
- (2) The Recommendation of the Magistrate Judge (Doc. #40) entered on January 13, 2009 is adopted;
- (3) The defendant's Motion to Dismiss (Doc. #31) is DENIED.

DONE this the 11th day of March, 2009

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE